

# HOUSE . . . . . No. 2276

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By Mr. Travis of Rehoboth, petition of Philip Travis for legislation to provide for uniform sales and use tax administration. Revenue.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Five.

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### AN ACT RELATIVE TO THE MASSACHUSETTS UNIFORM SALES AND USE TAX ADMINISTRATION ACT.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. As used in this chapter, the following words shall  
2 have the following meanings:—  
3 “Agreement”, the Streamlined Sales and Use Tax Agreement.  
4 “Certified automated system”, software certified jointly by the  
5 states that are signatories to the Agreement to calculate the tax  
6 impose by each jurisdiction on a transaction, determine the  
7 amount of tax to remit to the appropriate state, and maintain a  
8 record of the transaction.  
9 “Certified service provider”, an agent certified jointly by the  
10 states that are signatories to the Agreement to perform all of the  
11 seller’s sales tax functions.  
12 “Commissioner”, the commissioner of the department.  
13 “Department”, the Massachusetts department of revenue.  
14 Person”, an individual, trust, estate, fiduciary, partnership, limited  
15 liability company, limited liability partnership, corporation, or any  
16 other legal entity.  
17 “Sales tax”, the tax levied under chapter 64H of the General  
18 Laws.  
19 “Seller”, any person making sales, leases, or rentals of personal  
20 property or services.  
21 “State”, any state of the United States and the District of  
22 Columbia.

23 “Use tax”, the tax levied under chapter 64I of the General  
24 Laws.

1 SECTION 2. For the purpose of reviewing or amending the  
2 agreement embodying the simplification requirements as con-  
3 tained in section 5, the commonwealth shall enter into multi-state  
4 discussions. For purposes of such discussions, the commonwealth  
5 shall be represented by no more than 4 delegates, 2 of which shall  
6 be appointed by the governor, 1 of whom shall be the commis-  
7 sioner and 1 of whom shall represent the retailers association of  
8 Massachusetts, and 1 of whom shall be appointed by the president  
9 of the senate, and 1 of whom shall be appointed by the speaker of  
10 the house of representatives.

1 SECTION 3. The department may enter into the agreement  
2 with 1 or more states to simplify and modernize sales and use tax  
3 administration in order to substantially reduce the burden of tax  
4 compliance for all sellers, buyers and types of commerce. In fur-  
5 therance of the agreement, the department may act jointly with  
6 other states that are members of the agreement to establish stan-  
7 dards for certification of a certified service provider and certified  
8 automated system and establish performance standards for multi-  
9 state sellers. The department may take other actions reasonably  
10 required to implement the provisions set forth in this chapter or to  
11 otherwise substantially reduce the administrative burdens associ-  
12 ated with sales and use tax compliance. Other actions authorized  
13 by this section include, but are not limited to, the adoption of rules  
14 and regulations and the joint procurement, with other member  
15 states of goods and services in furtherance of the cooperative  
16 agreement.

17 The Commissioner or his designee may represent the common-  
18 wealth before the other states that are signatories to the agree-  
19 ment.

1 SECTION 4. No provision of the agreement authorized by this  
2 chapter in whole or in part invalidates or amends any provision of  
3 laws of the commonwealth. Adoption of the agreement by the  
4 commonwealth does not amend or modify any other law. Imple-  
5 mentation of any condition of the agreement in this state, whether

6 adopted before, at, or after membership of this state in the agree-  
7 ment, must be by the action of the commonwealth.

1 SECTION 5. The department shall not enter into the Stream-  
2 lined Sales and Use Tax Agreement unless the agreement requires  
3 each state to abide by the following requirements:

4 (a) Simplified State Rate. The agreement must set restrictions  
5 to limit over time the number of state rates.

6 (b) Uniform Standards. The agreement must establish uniform  
7 standards for the following:

8 (1) The sourcing of transactions to taxing jurisdictions.

9 (2) The administration of exempt sales.

10 (3) Sales and use tax returns and remittances.

11 (c) Central Registration. The agreement may provide an elec-  
12 tronic registration system that allows a seller to register to collect  
13 and remit sales and use taxes for all signatory states. (d) No Nexus  
14 Attribution. The agreement must provide that registration with the  
15 central registration system and the collection of sales and use  
16 taxes in the signatory states will not be used as a factor in deter-  
17 mining whether the seller has nexus with a state for any tax.

18 (e) Local Sales and Use Taxes. The agreement must provide for  
19 reduction of the burdens of complying with local sales and use  
20 taxes through the following:

21 (1) Restricting variances between the state and local tax bases.

22 (2) Requiring states to administer any sales and use taxes levied  
23 by local jurisdictions within the state so that sellers collecting and  
24 remitting these taxes will not have to register or file returns with,  
25 remit funds to, or be subject to independent audits from local  
26 taxing jurisdictions.

27 (3) Restricting the frequency of changes in the local sales and  
28 use tax rates setting effective dates for the application of local  
29 jurisdictional boundary changes to local sales and use taxes.

30 (4) Providing notice of changes in the local sales and use tax  
31 rates and of changes in the boundaries of local taxing jurisdic-  
32 tions.

33 (f) Monetary Allowances. The agreement may outline any mon-  
34 etary allowances that are to be provided by the states to sellers or  
35 certified service providers. The agreement must allow for a joint  
36 public and private sector study of the compliance cost on sellers

37 and certified service providers to collect sales and use taxes for  
38 state and local governments under various levels of complexity to  
39 be completed July 1, 2002.

40 (g) State Compliance. The agreement may require each state to  
41 certify compliance with the terms of the agreement prior to  
42 joining and to maintain a compliance, under the laws of the  
43 member state, with all provisions of the agreement while a  
44 member.

45 (h) Consumer Privacy. The agreement may require each state to  
46 adopt a uniform policy for Certified Service Providers that pro-  
47 tects the privacy of consumers and maintains the confidentiality of  
48 tax information.

49 (i) Advisory Councils. The agreement must provide for the  
50 appointment of an advisory council of private sector representa-  
51 tives and an advisory council of non-member state representatives  
52 to consult with in the administration of the agreement.

1 SECTION 6. The agreement authorized by this chapter is an  
2 accord among individual cooperating sovereigns in furtherance of  
3 the governmental functions. The agreement provides a mechanism  
4 among the member states to establish and maintain a cooperative,  
5 simplified system for the application and administration of sales  
6 and use of taxes under the duly adopted laws of each member  
7 state.

1 SECTION 7. No provision of the agreement authorized by this  
2 chapter in whole or part invalidates or amends any provision of  
3 the laws of the commonwealth. Adoption of the agreement by the  
4 commonwealth does not amend or modify any law of the com-  
5 monwealth. Implementation of any condition of the agreement in  
6 the commonwealth, whether adopted before, at, or after the mem-  
7 bership of the commonwealth in the agreement, must be by the  
8 action of the commonwealth.

1 SECTION 8. The agreement binds and inures only to the ben-  
2 efit of the commonwealth and the other member states. No person  
3 is an intended beneficiary of the agreement.

1     SECTION 9. Any benefit to a person is established by the law  
2 of the commonwealth and the other member states and not by the  
3 terms of the agreement. No law of the commonwealth, or the  
4 application thereof, may be declared invalid as to any person or  
5 circumstance on the ground that the provision or application is  
6 inconsistent with the agreement. No person shall have any cause  
7 of action or defense under the agreement or by virtue of the com-  
8 monwealth's approval of the agreement. No person may chal-  
9 lenge, in any action brought under any provision of law, any  
10 action or inaction by any department, agency, or other instrumen-  
11 tality of this state, or any political subdivision of this state on the  
12 ground that the action or inaction is inconsistent with the agree-  
13 ment.